Award No. 224
Case No. TCU-42-W

SPECIAL BOARD OF ADJUSTMENT NO. 605

PARTIES) St. Louis-San Francisco Railway Company
TO THE) and
DISPUTE) Transportation-Communication Employees Union

QUESTION
AT ISSUE: Do the provisions of Agreements made prior to February 7, 1965 nullify any provisions of the February 7, 1965 Agreement?

OPINION
OF BOARD: Claimant had been Manager and Wire Chief, St. Louis Relay Office for four years preceding September 25, 1964. On that date a memorandum of agreement was executed which provided that the position could be abolished whenever Claimant vacated it or within twenty days after May 18, 1965, whichever occurred first. As a consideration for this, Carrier granted 8¢ per-hour increases, effective October 1, 1964, to three positions at Lyndenwood, Missouri.

The position of Manager and Wire Chief was abolished, pursuant to the agreement of September 25, 1964. Claimant bid for and was assigned the position of Telegrapher. The rate of the new position was 36.4¢ per hour less than his former position. Claimant was a protected employee and seeks compensation for the difference between the two rates.

According to Carrier, Claimant's "normal rate of compensation" was the lower rate once the September agreement was executed, although the change did not become effective until many months later. The Organization contends that on October 1, 1964, the normal rate of compensation of Claimant's regularly assigned position was that of Manager and Wire Chief.

The February 7, 1965, Agreement is clear in fixing the guaranteed compensation as that which was the normal rate of the regularly assigned position on October 1, 1964. Although

Carrier asserts that it included the 8¢ increase in the normal rate of compensation for the Telegrapher positions, which was given pursuant to the September 25 agreement, and therefore should be entitled to anticipate Claimant's subsequent rate, the fact is that the actual rate of the other employees on October 1, 1964, was 8¢ higher than it had previously been.

If the September agreement had provided the 8¢ increase effective October 2, Carrier surely would not have considered it in the normal rate of compensation which must be preserved thereafter. Why, then, should an anticipated decrease in Claimant's rate of compensation alter the October 1 rate to which he is entitled?

The converse of this situation illuminates the proper approach to it. If a September 25, 1964, memorandum provided for a 1965 promotion and an increase in salary, rather than an abolishment of a position and a decrease, there is no doubt that a carrier with perfect propriety and success would maintain that the normal rate of compensation is that which the employee enjoyed on October 1, 1964, regardless of prospective increases.

A W A R D

In connection with this case, the Answer to the Question is No.

Milton Friedman
Neutral Member

Washington, D. C.
November 6, 1970

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